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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,019	12/31/2001	Xiaowei Weng	56.0622	7528
27452	7590	10/01/2004	EXAMINER	
SCHLUMBERGER TECHNOLOGY CORPORATION IP DEPT., WELL STIMULATION 110 SCHLUMBERGER DRIVE, MD1 SUGAR LAND, TX 77478			THOMPSON, KENNETH L	
			ART UNIT	PAPER NUMBER
			3672	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Advisory Action</b>	Application No. 10/039,019	Applicant(s) WENG ET AL.	
	Examiner Kenn Thompson	Art Unit 3672	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-14.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
 Kenn Thompson  
 Primary Patent Examiner  
 Art Unit: 3672

26 Aug 04

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. Applicant argues the frangible diaphragm disclosed by Huitt et al. is not a burst disk as described in the present application. The frangible diaphragm is inherently capable of performing as the a burst disk, the claimed structural limitations do not preclude the comparison.

Applicant argues the frangible diaphragm disclosed by Huitt et al. is not designed to burst at a specific pressure and fluid pressure is not used to burst the covering, but rather the bit itself. The claims do not require the burst disc to rupture from contact with fluid pressure. Applicant argues the casing (22) of Huitt, which isolates the wellbore from the formation and prevents fluid from flowing into the wellbore, is not comparable to the annulus isolation mechanism of Applicant's invention. The claims anticipated by Huitt et al. require only an annulus isolation mechanism, they do not recite structural limitations precluding the comparison.

Applicant argues the prior art of Huitt et al. does not disclose the apparatus being suitable for hydraulic fracturing, the apparatus is specifically for initiating fractures. The claims do not require hydraulic fracturing or fluid contact with the formation creating the fracture. Huitt et al. discloses use of a supplied fluid to fracture the formation.

Applicant argues the prior art of Huitt et al. does not disclose a mechanism that allows fluid to be placed through it. Huitt discloses in column 2 lines 24 and 25 tubing 25 is provided for injection of fluid.